



# LABOR WORKS

A Publication of the Kentucky Labor Cabinet

I am honored to have been named Acting Secretary of the Kentucky Labor Cabinet by Governor Beshear. I pledge to you, as I did to The Governor, that I will give my maximum effort in carrying out the mission of this office.

We are fortunate in Kentucky to have a leader such as Governor Beshear to guide us through these tough economic times. The Governor recognized early in his administration the importance of our workforce by elevating Labor back to Cabinet status and concentrating on retaining, expanding and attracting jobs for those workers. He has continued to emphasize the importance of a safe, healthful and quality workplace that is conducive to cooperation between management and workers.

We at the Labor Cabinet have the opportunity to work with many of our finest employers in a cooperative effort to ensure that this atmosphere continues to thrive and spread across our Commonwealth. The success of our voluntary partnership programs in promoting a safe and healthy workplace is unsurpassed in the US and helps lead to an environment of economic opportunity for all.

As employers are strained by the severe economic forces, some choose to cut corners on safety or fail to compensate workers equitably. Although we at the Labor Cabinet have experienced the same economic stress, we continue to respond vigorously to those workers who are endangered in the workplace whether physically or financially.

The Labor Cabinet has experienced eight budget reductions in the past three years but our employees continue to perform admirably under these conditions in carrying out our mission. I want to thank them for their commitment and dedication.

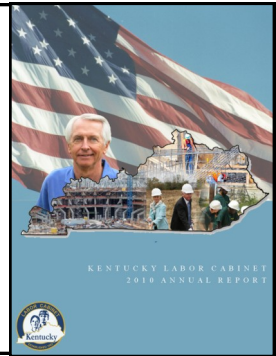
I want to extend my congratulations and best wishes to Secretary JR Gray and his wife Yvonne on his retirement. JR dedicated the greater portion of his life to the benefit of Kentucky's working men and women. His career in the Legislature was unequaled in service to working families and as Labor Secretary he led the way in re-establishing the Cabinet to its previous stature. Thank you JR and we wish you many years of happiness and relaxation.

As I begin my tenure as Labor Secretary, I want to thank all of you who have called or written with words of encouragement and congratulations. As always, my door is open and I am only a phone call away. I will look forward to your wise council as we work together with Governor Beshear and other leaders to move our Commonwealth forward for the common good.



## **The FY2010 Annual Report of the Kentucky Labor Cabinet is now online at [www.labor.ky.gov](http://www.labor.ky.gov)**

*Click the photo to view >>>*



### **OSH COMPLIANCE INSPECTION PROCEDURES (part 3)**

**OSH Compliance**

#### ***Closing Conference***

After the walkaround portion of the inspection, the inspector will offer to conduct a closing conference to discuss the findings of the inspection. This closing conference can take place the same day as the walkaround portion of the inspection or it may be delayed for the inspector to review documents, records, and/or monitoring results. The company has the right to have a representative present at the closing conference as do employee groups. Employees that are not represented by a bargaining unit may have an employee on the safety committee designated to attend the closing. If the employer requests an attorney attend the closing conference on its behalf, the cabinet usually will have one also. The closing conference can be at the employer's facility or over the telephone. Whether the closing is held at the facility or over the telephone is usually the employer's choice. If the employer cannot be reached to schedule a closing conference, the inspector will send the employer a letter to inform it that if it does not contact the inspector by a date and time, the employer will have been deemed to have given up its right to a closing conference.

At the closing conference, the inspector will discuss all conditions he or she will be recommending as alleged violations. If the employer has discovered information after the walkaround that would lean toward not issuing a citation, such as finding inspection or training records, the closing conference would be a good time to bring this information to the attention of the inspector. The employer can also inquire as to abatement of alleged violations.

After the inspector has discussed the alleged violations, he or she will provide the closing conference attendees with a Post Inspection Guide (PIG) that outlines the employer's rights and responsibilities following an OSH inspection and go over the PIG with the attendees. Information discussed will include the types of violations, penalties (especially if failures to abate will be recommended), posting requirements, employer options, steps to comply with the citation and penalty, how to request an informal contest, how to contest, the contest process, how to file for an abatement extension, employee course of action, follow-up inspections, employee discrimination, voluntary compliance through and services of the cabinet's Division of Education and Training, and answer any questions the closing conference attendees may have.

If the inspection included any type of sampling or monitoring, the inspector will go over the results. If the inspection involved a complaint, the inspector will go over the complaint items at the closing conference and inform the attendees of results regarding each complaint item as well as any additional hazards observed.

The length of time for the closing conference depends on the number of conditions discovered and the number of questions.

Violence in the workplace is a serious safety and health issue. It is a hazard that does not discriminate and it can affect any industry. Based upon the most recent available data, homicide is the fourth-leading cause of fatal occupational injury in the United States. All employers should give serious consideration to the subject and address the issue before an incident occurs. The following are some steps that can be taken to protect employees.

Establish a written policy regarding management's stance on workplace violence and train employees on the elements of that program, including recognizing improper workplace conduct and the proper way to report workplace violence.

Take measures to secure the workplace, which may include installing video surveillance cameras as well as additional lighting in the workplace or parking lot, and limiting access to the employees by the general public.

Know the location of your employees during working hours and require them to maintain contact throughout the shift. This may require an employer to provide field employees with cellular phones or global positioning devices.

Investigate all reports of workplace violence or threats against employees.

More information regarding the prevention of workplace violence may be found on OSHA's website at:

<http://www.osha.gov/SLTC/workplaceviolence/solutions.html>.

There are some workplaces where the incidence of workplace violence is higher than others. Among the professions with traditionally higher workplace violence rates are those that require workers to exchange money with the public, those who are deliverers of passengers, goods, or services, those who work alone or in small numbers during late night or early morning hours, and those who have extensive contact with the public. "Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments", found at <http://www.osha.gov/Publications/osh3153.pdf>, and "Guidelines for Preventing Workplace Violence for Health Care and Social Service Workers", found at <http://www.osha.gov/Publications/osh3148.pdf>, address workplace violence in specific industries.

While no current Kentucky occupational safety and health regulations apply specifically to occupational violence, Kentucky Revised Statute 338.031 requires employers to furnish employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to his or her employees.

**Recent inspections have revealed that some employers in Kentucky have been using rock climbing equipment for fall arrest systems during roofing activities. Rock climbing equipment is usually less expensive than fall arrest equipment so the temptation to utilize this equipment is great. Most rock climbing equipment components, however, do not meet the fall arrest system requirements found in 29 CFR 1926.502. Employers utilizing rock climbing equipment for fall protection in lieu of equipment specified in the standard may not be providing their employees with acceptable, dependable fall arrest protection and are subject to citations and penalties for using this equipment as part of a fall arrest system. Each component of a fall arrest system must meet 1926.502 specifications. Some rock climbing equipment may also be used as positioning devices under 1926.502 but must meet the requirements of the standard.**

**The cabinet will soon be publishing a more extensive warning on its website at [www.labor.ky.gov](http://www.labor.ky.gov).**

## **GOVERNOR BESHEAR RECOGNIZES BOWLING GREEN MANUFACTURER, SUN PRODUCTS CORPORATION, FOR MODEL SAFETY AND HEALTH PROGRAM**

*Receives SHARP Certification and Governor's Safety & Health Award for achieving over 5 million hours without a lost time injury*

The Sun Products Corporation, a leading manufacturer and marketer of fabric care and dish care products today received two awards for taking extraordinary measures to ensure the safety and health of its employees.

A plaque signifying the company's certification under the Safety and Health Achievement Recognition Program (SHARP) and another plaque for the Governor's Safety and Health Award for achieving in June 2010 over 5,087,143 hours without a lost time accident were presented to Mr. Ronald Anglin, Plant Director by Secretary Mark Brown of the Kentucky Labor Cabinet.

"SHARP recognizes employers who operate exemplary safety and health management systems and are committed to making safety for employees a priority" said Mr. Brown during today's award ceremony. "I am delighted to be here today to recognize Sun Product's significant achievements in safety."

The U.S. Department of Labor designed SHARP to encourage and recognize excellence in occupational safety and health among employers and create a proactive partnership with its Occupational Safety & Health Administration (OSHA). Although companies must meet federal standards for the program, the Kentucky Labor Cabinet presents the award as Kentucky has operated its own federally approved Occupational Safety and Health (KY-OSH) program for over 20 years. Sun Products' manufacturing operation in Bowling Green has been working toward SHARP certification for a couple years and becomes the 12th facility in Kentucky to attain SHARP certification.

The Governor's Safety and Health Award honors employers and employees who meet a required number of hours without workplace injuries serious enough to cause an employee to miss a day of work. Sun Products' Bowling Green facility qualified for this award by working more than 5 million hours without a lost-time injury. The site's injury-free record dates back to November 2007.



"Congratulations to our Sun Products Bowling Green associates for achieving this exceptional safety milestone," said Neil P. DeFeo, Chief Executive Officer, Sun Products. "Safety is an important part of our values which recognize associates as the most significant element of our success. I wish to thank all of our associates for being committed to creating an injury free workplace."

More information on SHARP and the State of Kentucky's health and safety standards and programs can be found at <http://www.labor.ky.gov/ows/osh/educationtraining/partnershipprograms/sharp.htm>

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### **About The Sun Products Corporation**

The Sun Products Corporation, headquartered in Wilton, Connecticut, is a leading North American provider of laundry detergent, fabric softeners and other household products. Established in 2008 from the combination of Unilever's North American fabric care business and Huish Detergents, Inc., the Company has annual net sales of more than \$2 billion and 3,400 associates. The Company's portfolio of products include well known brands including all®, Snuggle®, Sun®, Wisk®, Surf®, and Sunlight®. In addition, Sun Products is the manufacturing partner for the majority of retailer brand laundry and dish products in North America. The Company maintains offices and Research & Development facilities in Fairfield County, Connecticut; Salt Lake City, Utah and Toronto, Canada. The Company also operates manufacturing facilities in Salt Lake City, Utah; Bowling Green, Kentucky; Dyersburg, Tennessee; Baltimore, Maryland and Houston, Texas. For more information visit: [www.sunproductscorp.com](http://www.sunproductscorp.com)

### **SHARP Background Information:**

SHARP - Safety and Health Achievement Recognition Program:

The U.S. Department of Labor designed SHARP to encourage and recognize excellence in occupational safety and health among employers and create a proactive partnership with OSHA. The SHARP's program is a partnership through the Division of Education & Training within OSHA. It is administered through the Department of Labor, OSHA. To qualify for SHARP, companies must undergo a comprehensive evaluation and series of audits, correct any identified hazards, demonstrate that effective safety and health programs are in place, and maintain injury rates below the national average for their industry for the last three years. Companies must have a safety and health program that involves all employees in finding and correcting existing or possible future hazards as they develop. SHARP's certification is good for two years and then can be renewed. A company is exempted from scheduled KY-OSH compliance inspections during the certification period but partners with KY-OSH to continue striving to improve their safety program. The injury and illness Recorded Injury Rate (RIR) at Sun Products for 2009 is approximately 65% better than the national average for their industry, and from November 26 of 2007 to the end of September 2010 Sun Products went 5,616,396 hours without a lost-time accident.

### **The other KY companies currently having SHARP certification are:**

Uncle Charlie's Meats-Richmond, Bullard Co.-Cynthiana, Multicorr, Inc.-Louisville, Federal Mogul Maysville-Maysville, Washington Penn Plastic Co.-Frankfort, Maker's Mark Co.-Loretto, Hendrickson Truck & Suspension Co.-Lebanon, Zappos F/C Center-Shepherdsville, American Woodmark - Monticello, Univance Inc.-Winchester and Ceradyne Inc.- Lexington



**What's WRONG  
with this picture?**



The majority of the work performed by the Office of General Counsel (OGC) is the prosecution of wage and hour, prevailing wage and occupational safety and health violations. The OGC had a successful year from June 2009 through September, 2010.

Wage and hour recoveries increased drastically with a renewed emphasis on protecting public projects and the prevailing wages promised to workers. The OGC actually sent attorneys to public worksites to gather critical evidence that eventually led to settlements in two cases with a total wage recovery of more than 1.5 million dollars. One of these cases was highlighted by the United States Department of Labor at a conference in Houston as a case study for enforcement when employers exploit immigrant workers.

The OGC also established formal ties with the Federal Department of Homeland Security and its Immigration Customs and Enforcement division as well as the Internal Revenue Service criminal division to investigate and prosecute a contractor whose violations of tax, labor and OSH laws were so egregious that joint enforcement was necessary.

Besides the above two cases, the OGC helped collect \$659,926.41 in wages for Kentucky workers from June 2009 through September 2010. This figure includes a settlement with a temp agency who was charging day laborers for the cost of their own drug screens every time they were sent to a new employer. Though the recovery was on average less than \$20 per person, the OGC changed the practice that adversely affected over 3,000 workers. The secretaries of the OGC are to be commended for managing such a voluminous class of claimants.

In many ways this year was the year of the firefighter. Several large cities including Louisville/Metro, Covington and Owensboro settled longtime overtime disputes with the assistance of the OGC and the Department of Workplace Standards with a wage recovery of over 46 million dollars. The OGC also successfully defended the ability enforce the wage and hour laws against small cities in litigation that is now before the Kentucky Supreme Court.

The OGC also made considerable headway in enforcing Kentucky's Occupational Safety and Health laws as well. In September, 2009 attorneys quickly engaged company representatives to address imminent safety concerns at AK Steel in Ashland. The OGC ultimately crafted a three party agreement (including the bargaining representative for the United Steelworkers) to address the safety concerns but also to ensure that the facility remained viable for ongoing production. Federal OSHA specifically reviewed this settlement and complimented the OGC on its ingenuity.

The OGC was victorious in proving three willful violations against three separate employers. Willful violations carry much large penalties and also impose a much larger burden of proof on the Cabinet.

The OGC collected \$386,293.19 from August 2009 through September 2010 in contested and delinquent occupational safety and health penalties which was deposited directly into the General Fund for the state. Further, the OGC filed 131 occupational safety and health liens for delinquent penalties.

The OGC also took the extraordinary step of working with the Kentucky Attorney General to collect large delinquent penalties from a repeat offending employer who owed nearly \$50,000.00 to the Commonwealth.

Attorneys in the Office of General Counsel also represent the Division of Workers' Compensation Funds in cases involving special fund and coal fund beneficiaries. Special fund beneficiaries are employees who developed a compensable occupational disease or who had a preexisting disability, disease or condition, and received a subsequent work injury (or for disease, a last injurious exposure) prior to December 12, 1996. Beneficiaries of the coal workers' pneumoconiosis fund are Kentucky coal workers with a compensable form of coal workers' pneumoconiosis and a last exposure to occupational coal dust after December 12, 1996. The OGC reopened and issued approximately 137 certifications for Special Fund survivor claim cases.

The OGC also assisted the Governor's office in permanently reorganizing the Department of Labor to its current status as a Cabinet.

Finally, the OGC through its stellar paralegal, managed 705 open records request (498 occupational safety and health and 207 wage and hour) in the period between June 2009 and September 2010.

## Free Training Offered

The Division of Education and Training is offering update training on cranes and rigging. The training is free for Kentucky employees and employers. The training will discuss the recent changes to the related standards.

### **Crane and Rigging Training**

Where	When	Register
Midwest Consulting 280 Ellis Smeathers Rd Owensboro	Thursday January 13, 2011 9 am - 1 pm	<a href="#"><u>On-Line</u></a>
AGC of Lexington 960 Contract St Lexington	Wednesday January 26, 2011 9 am - 1 pm	<a href="#"><u>On-Line</u></a>
Builders Exchange 2300 Meadow Drive Louisville	Tuesday February 8, 2011 9 am - 1 pm	<a href="#"><u>On-Line</u></a>
P.B. Community Center 300 Jenkins St. Bowling Green	Thursday February 24, 2011 8 am - 12 pm	<a href="#"><u>On-Line</u></a>
Maysville Community College 1755 US Highway 68 Maysville	Thursday March 17, 2011 9 am - 1 pm	<a href="#"><u>On-Line</u></a>
Somerset Center for Rural Development 2292 South Highway 27 Somerset	Tuesday March 29, 2011 8 am - 12 pm	<a href="#"><u>On-Line</u></a>

Class sizes are limited. Reserve your spot by registering online. Simply click the "On-Line" indicator beside the session you wish to attend.



**The Hard Hat Comedy Show**  
with Matt Karam & Rich Ragains  
Wednesday  
May 11

## Happy Holidays

from the Kentucky Safety & Health Network Board of Directors

### 27th Annual Governor's Safety & Health Conference & Expo

**May 10-13, 2011 • Louisville, KY**

- Pre-con classes, May 10 - **FREE with full registration**
- \$40,000 in scholarships will be awarded
- Six rounds of workshops
- Golf Scramble Tuesday, May 10, Quail Chase Golf Club  
- All money raised from scramble go towards scholarships

More information: [www.kshn.net](http://www.kshn.net), 502.564.4100




[www.labor.ky.gov](http://www.labor.ky.gov)      [www.kshn.net](http://www.kshn.net)






**Billy Robbins**  
Opening Session Speaker  
"Hooked on Safety"  
Wednesday  
May 11